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8 Attorneys for Plaintiffs
ANDRÉ BENJAMIN; THE BENJAMIN COMPANY,
LLC; HIGH SCHOOLERS, LLC; ANDRE 3000, INC.

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11 UNITED STATES DISTRICT COURT
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13 EASTERN DISTRICT OF CALIFORNIA

14 ANDRE BENJAMIN, an individual;
15 THE BENJAMIN COMPANY,
LLC, limited liability company; HIGH
SCHOOLERS, LLC, a limited
liability company; and ANDRE
3000, INC., a corporation,

16 Plaintiffs,

17 vs.

18 GREGORY BIXBY, an individual; BEN
19 BIXBY or in the alternative BENJAMIN
BIXBY, an individual; LOCK JAW
RACING, a corporation; and DOES 1
20 through 10,

21 Defendants.

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23 CASE NO. 1:08-CV-01025-AWI-DLB

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**ORDER (1) VACATING DEFAULT, (2)
SETTING TIME TO ANSWER FIRST
AMENDED COMPLAINT, AND (3)
CONTINUING SCHEDULING
CONFERENCE**

Complaint Filed: July 17, 2008

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **WHEREAS**, Plaintiffs Andre Benjamin, The Benjamin Company, LLC, High Schoolers,
3 LLC, and Andre 3000, Inc. (collectively, “Plaintiffs”) filed the original Complaint in this action
4 on July 17, 2008;

5 **WHEREAS**, Plaintiffs filed their First Amended Complaint in this action on July 30,
6 2008;

7 **WHEREAS**, on August 29, 2008, Plaintiffs filed Requests for Entry of Default against
8 Defendants Gregory Bixby and Benjamin Bixby (together, “Defendants”) (the “Requests for
9 Entry of Default”);

10 **WHEREAS**, on September 3, 2008, the Clerk granted Plaintiffs’ Requests for Entry of
11 Default and entered the defaults against Defendants;

12 **WHEREAS**, Defendants contest whether service of the summons and complaint on
13 which the entries of default were based were proper under applicable law and rules;

14 **WHEREAS**, Plaintiffs and Defendants have entered into a Stipulation requesting that the
15 Court vacate the Clerk’s Entries of Default against Defendants Gregory Bixby and Benjamin
16 Bixby (which was filed with the Court on November 25, 2008);

17 **WHEREAS**, the Court Clerk instructed counsel for Plaintiffs to submit this Order;

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28 987339_1.p **NOW, THEREFORE, IT IS HEREBY ORDERED:**

[PROPOSED] ORDER VACATING DEFAULT,
SETTING TIME TO ANSWER FIRST AMENDED COMPLAINT,
AND CONTINUING SCHEDULING CONFERENCE

2 February 2009

/s/ Dennis L. Beck
United States Magistrate Judge

DREIER STEIN KAHL
BROWNE WOODS GEORGE LLP